

# EXHIBIT R

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
MARSHALL DIVISION

NETLIST, INC., ( CAUSE NO. 2:21-CV-463-JRG  
)  
Plaintiff, ( )  
vs. ( )  
SAMSUNG ELECTRONICS CO., LTD., ( )  
et al., ( ) MARSHALL, TEXAS  
( ) APRIL 21, 2023  
Defendants. ( ) 8:00 A.M.

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VOLUME 6

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TRIAL ON THE MERITS

BEFORE THE HONORABLE RODNEY GILSTRAP  
UNITED STATES CHIEF DISTRICT JUDGE  
and a jury

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1 distraction designed to focus on not the issues that are  
2 presented in this case.

3 And I say that not just by my own words but under the  
4 words of Samsung's expert, Mr. McAlexander. And what he  
5 testified to is that the modules contain flash. Flash is a  
6 non-volatile memory, and every single DDR5 module that Samsung  
7 sells includes non-volatile memory.

8 This is another example where I'm asking you, do not take  
9 my word for it. JTX 12 at page 16, JTX 12 at 16, it will say  
10 in clear English, a Samsung confidential document,  
11 non-volatile memory.

12 The second family of patents that are at issue in this  
13 case is the '339 Patents. And Doctor Mangione-Smith will  
14 speak -- spoke about those as well. These relate to  
15 load-reduced dual in-line memory modules.

16 This is a patent family that I struggle with how to start  
17 to explain to you. And the reason for that is because the  
18 idea that this patent family is not infringed absolutely  
19 contradicts everything Samsung said in its internal documents  
20 in 2019. PX 1756, a candid 2019 email from Samsung itself, a  
21 formal document, and they say Netlist created LRDIMM, and yet  
22 today when they face the consequences of their action, they  
23 deny using our technology, the exact opposite of what they  
24 said in 2019.

25 And it wasn't just once. They said it again and again

1 and again that they wanted our LRDIMM patents. This is, once  
2 again, 1756. Why did they say that? Why is there this  
3 dramatic change between 2019 and today? It's the last  
4 sentence. The last sentence tells it all. They wanted our  
5 technology, and they did not want to compensate for it. And  
6 this lawsuit exist because they took the technology and they  
7 did not want to compensate us for it. And it's in plain  
8 written English in a document from 2019 that you can access.

9 The limitation at issue in this case is, once again, all  
10 but one element is conceded infringed, and the element that's  
11 not infringed is this reference to a drive. Driving. And  
12 driving means enabling only one of the data paths while the  
13 other possible data paths are disabled.

14 Now, Doctor Mangione-Smith pointed out to you and  
15 specifically pointed out that because the buffers have an  
16 upper nibble and a lower nibble, there are two paths, path one  
17 and path two, and the data, as it comes in, can make a choice  
18 as to what path it goes on. And he spoke about the fact that  
19 those are different transmissions, two paths, the upper half  
20 byte and the lower half byte.

21 Now, one of the things that I think is particularly  
22 concerning, and I'd ask that you be very careful with this, is  
23 that the ability to cherry-pick small isolated passages from  
24 transcripts in a deposition or at trial often veils the truth.  
25 In any one point in time, there is only one path for a

1 this man 12 times, and for reasons that are unclear, this time  
2 did not show him the source code, and it infects his analysis  
3 of every single patent. Out of timber so crooked nothing  
4 straight can come.

5 Can we have -- and, by the way, this is Bruce Lo making  
6 clear whether you call something a regulator or a converter,  
7 it does the same thing, it converts.

8 Can we have slide 23?

9 The second operable state says nothing about DRAM  
10 operating. Don't take my word for it. Ask Mr. McAlexander.  
11 He admitted under oath that Judge Gilstrap did not say the  
12 second operable state must have operable DRAM. They are  
13 changing Judge Gilstrap's construction. And he admitted in  
14 this operable state, second operable state, the power  
15 management is still operating to protect the invention.

16 And Bruce Lo, who actually had access to the source code  
17 that Samsung did not give to its own expert, testified that  
18 there is a second operable state.

19 The second issue I will discuss is the '339 Patent.

20 If we could have slide 44.

21 These are the two paths. Doctor Mangione-Smith showed  
22 them clear as day. Why does Doctor Mangione-Smith and Mr.  
23 McAlexander say different things? Why does Mr. McAlexander  
24 say there's only one path and why does Doctor Mangione-Smith  
25 say there's two paths?

1           The answer is in front of you. Out of timber so crooked,  
2 nothing straight can come. A relationship that spanned 12  
3 cases and yet they didn't even have the courtesy to provide  
4 him with the source code that would establish definitively  
5 that what they're having him say was incorrect.

6           If we can go to slide -- oh, I'll go back.

7           There was another word game that was played by counsel.  
8 It says, Enabling one of the data paths. But he said that had  
9 to be a write data path. Do you remember that? He said it  
10 had to be a write data path.

11           You're going to get the Court's claim construction in  
12 your binders. And if anyone tells you the data path has to be  
13 only a write data path, point them to Judge Gilstrap's  
14 construction, not the spin that was put on it by Samsung. And  
15 the reason why that spin was put on Samsung -- that Samsung  
16 put that spin on is very clear: They were trying to get out  
17 in front of a damaging admission that Mr. McAlexander gave.

18           Go to JTX 20 at page 1. Go to JTX 20 at page 1. You  
19 will see two paths on the right-hand side, upper and lower  
20 nibble, two paths, and look at that claim construction and see  
21 if it mentions the words "not read". It does not.

22           I'd now like to go to the HBM patent.

23           If we can have slide 67.

24           There was a refusal of counsel to engage the basic defect  
25 in the analysis that was presented. Judge Gilstrap does not